

U.S. District Court
North Carolina Middle District (NCMD)
CRIMINAL DOCKET FOR CASE #: 1:23-mj-00146-JLW-1
Internal Use Only

Case title: USA v. DULANEY

Date Filed: 03/23/2023

Other court case number: 1:23-CR-0066 NORTHERN
DISTRICT OF GEORGIA

Date Terminated: 03/24/2023

Assigned to: MAG/JUDGE JOE
L. WEBSTER

Defendant (1)

HORACE DONTE DULANEY
TERMINATED: 03/24/2023

represented by **JAY HARDIN FERGUSON**
THOMAS FERGUSON & MULLINS, L.L.P.
119 E. MAIN ST.
DURHAM, NC 27701
919-682-5648
Fax: 919-688-7251
Email: ferguson@tfbllawyers.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

None

Disposition

Highest Offense Level
(Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level
(Terminated)

None

Complaints

RULE 5 ARREST

Disposition

Plaintiff**USA**

represented by **ROBERT A. J. LANG**
251 N. MAIN ST., STE. 726
WINSTON-SALEM, NC 27101
336-631-5268
Email: rob.lang@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: United States Attorney

| Date Filed | # | Docket Text |
|------------|----------|--|
| 03/24/2023 | | Arrest (Rule 5) of HORACE DONTÉ DULANEY (Garrett, Kim) (Entered: 03/24/2023) |
| 03/24/2023 | | Minute Entry for proceedings held before MAG/JUDGE JOE L. WEBSTER:INITIAL APPEARANCE IN RULE 5 PROCEEDINGS as to HORACE DONTÉ DULANEY held on 3/24/2023. AUSA Rob Lang. Attorney Jay Ferguson appointed and present with defendant. Defendant advised of rights and charges. Government not requesting detention. Defendant released (see order). Defendant released to appear as directed by the Northern District of Georgia. Proceedings recorded. (Garrett, Kim) (Entered: 03/24/2023) |
| 03/24/2023 | <u>1</u> | SEALED FINANCIAL AFFIDAVIT by HORACE DONTÉ DULANEY. (Garrett, Kim) (Entered: 03/24/2023) |
| 03/24/2023 | <u>2</u> | ORDER appointing CJA Panel Attorney JAY HARDIN FERGUSON for HORACE DONTÉ DULANEY. Signed by MAG/JUDGE JOE L. WEBSTER on 3/24/23. (Garrett, Kim) (Entered: 03/24/2023) |
| 03/24/2023 | <u>3</u> | WAIVER of Rule 5(c)(3) Hearing by HORACE DONTÉ DULANEY (Garrett, Kim) (Entered: 03/24/2023) |
| 03/24/2023 | <u>4</u> | ORDER Setting Conditions of Release for HORACE DONTÉ DULANEY. Signed by MAG/JUDGE JOE L. WEBSTER on 3/24/23. (Garrett, Kim) (Entered: 03/24/2023) |
| 03/24/2023 | <u>5</u> | Appearance Bond Entered as to HORACE DONTÉ DULANEY (Garrett, Kim) (Entered: 03/24/2023) |

DB

CJA-23
(Rev 3/21)**FINANCIAL AFFIDAVIT**

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT, OR OTHER SERVICES WITHOUT PAYMENT OF FEE

IN THE UNITED STATES ☒ DISTRICT COURT ☐ COURT OF APPEALS
IN THE CASE OF

United States of America v. Horace Donte Dulaney

PERSON REPRESENTED (Show your full name)

Horace Donte Dulaney
Address: 211 Turner Street
Winston-SalemDOB: 12-15-81
SSN: 208-62-8116
Phone: 732-720-9876
Tammy Moore, Stepmother

CHARGE/OFFENSE (Describe if applicable & check box→)

Conspiracy to Knowingly Make a False and
Fictitious Written Statement to a Licensed
Dealer of Firearms ☐ Misdemeanor☒ Felony☐ OTHER (Specify Below)

FOR

AT

MAR 24 2023

LOCATION
NUMBER

- 1 ☒ Defendant - Adult District Court
2 ☐ Defendant - Juvenile
3 ☐ Appellant
4 ☐ Probation Violator
5 ☐ Supervised Release Violator
6 ☐ Habeas Petitioner
7 ☐ 2255 Petitioner
8 ☐ Material Witness
9 ☒ Other (Specify) Rule 5 Out- ND/GA

DOCKET NUMBERS

Magistrate Judge

District Court

1:23CR66-2(ND/GA)

Court of Appeals

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

| INCOME & ASSETS | EMPLOYMENT | Do you have a job? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF YES, how much do you earn per month? \$2800 Will you still have a job after this arrest? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown | | | | | | | | | | | | | | | | | | | |
|--------------------------------|--|---|---------------------------|--|-------------------|---------------------------|------|------|--|-------------------|---------|---------------|----------|---------|-------------------|--------------|------|--|----------------|------|--|
| | PROPERTY | Do you own any of the following, and if so, what is it worth? <table border="1"> <thead> <tr> <th></th> <th>APPROXIMATE VALUE</th> <th>DESCRIPTION & AMOUNT OWED</th> </tr> </thead> <tbody> <tr> <td>Home</td> <td>\$ 0</td> <td></td> </tr> <tr> <td>Car/Truck/Vehicle</td> <td>\$ 5500</td> <td>2008 BMW 750i</td> </tr> <tr> <td>Boat/Car</td> <td>\$ 3500</td> <td>2008 Cadillac DTS</td> </tr> <tr> <td>Stocks/bonds</td> <td>\$ 0</td> <td></td> </tr> <tr> <td>Other property</td> <td>\$ 0</td> <td></td> </tr> </tbody> </table> | | | APPROXIMATE VALUE | DESCRIPTION & AMOUNT OWED | Home | \$ 0 | | Car/Truck/Vehicle | \$ 5500 | 2008 BMW 750i | Boat/Car | \$ 3500 | 2008 Cadillac DTS | Stocks/bonds | \$ 0 | | Other property | \$ 0 | |
| | | APPROXIMATE VALUE | DESCRIPTION & AMOUNT OWED | | | | | | | | | | | | | | | | | | |
| Home | \$ 0 | | | | | | | | | | | | | | | | | | | | |
| Car/Truck/Vehicle | \$ 5500 | 2008 BMW 750i | | | | | | | | | | | | | | | | | | | |
| Boat/Car | \$ 3500 | 2008 Cadillac DTS | | | | | | | | | | | | | | | | | | | |
| Stocks/bonds | \$ 0 | | | | | | | | | | | | | | | | | | | | |
| Other property | \$ 0 | | | | | | | | | | | | | | | | | | | | |
| CASH & BANK ACCOUNTS | Do you have any cash, or money in savings or checking accounts? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF YES, give the total approximate amount after monthly expenses \$2400 | | | | | | | | | | | | | | | | | | | | |
| OBLIGATIONS, EXPENSES, & DEBTS | How many people do you financially support? 4 | | | | | | | | | | | | | | | | | | | | |
| | BILLS & DEBTS | MONTHLY EXPENSE | TOTAL DEBT | | | | | | | | | | | | | | | | | | |
| | Housing | \$ 1700 | \$ 0 | | | | | | | | | | | | | | | | | | |
| | Groceries | \$ 400 | \$ | | | | | | | | | | | | | | | | | | |
| | Medical expenses | \$ 0 | \$ | | | | | | | | | | | | | | | | | | |
| | Utilities | \$ 350 | \$ | | | | | | | | | | | | | | | | | | |
| | Credit cards | \$ 0 | \$ | | | | | | | | | | | | | | | | | | |
| | Car/Truck/Vehicle | \$ 0 | \$ | | | | | | | | | | | | | | | | | | |
| | Childcare | \$ 0 | \$ | | | | | | | | | | | | | | | | | | |
| | Child support | \$ 0 | \$ | | | | | | | | | | | | | | | | | | |
| | Insurance | \$ 130 | \$ | | | | | | | | | | | | | | | | | | |
| | Loans | \$ 68 | \$ | | | | | | | | | | | | | | | | | | |
| | Fines | \$ 0 | \$ | | | | | | | | | | | | | | | | | | |
| | Other Cell phone | \$ 100 | \$ | | | | | | | | | | | | | | | | | | |

I certify under penalty of perjury that the foregoing is true and correct.

Horace Dulaney
SIGNATURE OF DEFENDANT
(OR PERSON SEEKING REPRESENTATION)

3-24-23
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA)

v.)

HORACE DONTE DULANEY)

1:23MJ146-1



ORDER

This matter comes before the Court for the appointment of counsel to represent Defendant in this matter. The Court has reviewed Defendant's Financial Affidavit, and concludes that Defendant is financially unable to employ counsel, does not wish to waive counsel, and that the interest of justice require appointment of counsel at the Government's expense.

IT IS THEREFORE ORDERED that CJA Panel Attorney Jay Ferguson is appointed to represent Defendant in this action.

This, the 24th day of March, 2023.

Joe L. Webster
United States Magistrate Judge



UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America)

v.)

Case No. 1:23MJ146-1

HORACE DONTE DULANEY)

Defendant)

Charging District's Case No. 1:23CR0066

WAIVER OF RULE 5 & 5.1 HEARINGS (Complaint or Indictment)

I understand that I have been charged in another district, the (name of other court) _____
NORTHERN DISTRICT OF GEORGIA

I have been informed of the charges and of my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or a reliable electronic copy of either;
- (4) a preliminary hearing to determine whether there is probable cause to believe that an offense has been committed, to be held within 14 days of my first appearance if I am in custody and 21 days otherwise, unless I have been indicted beforehand.
- (5) a hearing on any motion by the government for detention;
- (6) request a transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

I agree to waive my right(s) to:

- ☐ an identity hearing and production of the warrant.
- ☐ a preliminary hearing.
- ☐ a detention hearing.
- ☐ an identity hearing, production of the judgment, warrant, and warrant application, and any preliminary or detention hearing to which I may be entitled in this district. I request that my
 - ☐ preliminary hearing and/or ☐ detention hearing be held in the prosecuting district, at a time set by that court.

I consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Date: 03/24/2023

Horace Dulaney
Defendant's signature

[Signature]
Signature of defendant's attorney

Jay H. Ferguson / Jay A. Ferguson
Printed name of defendant's attorney

UNITED STATES DISTRICT COURT
for the
Middle District of North Carolina



United States of America
v.
HORACE DONTE DULANEY

Case No. 1:23MJ146-1

Defendant

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the defendant's release is subject to these conditions:

- (1) The defendant must not violate federal, state, or local law while on release.
- (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 34 U.S.C. § 40702.
- (3) The defendant must advise the court or the pretrial services office or supervising officer in writing before making any change of residence or telephone number.
- (4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve a sentence that the court may impose.

The defendant must appear at: as directed

Place

on

Date and Time

If blank, defendant will be notified of next appearance.

- (5) The defendant must sign an Appearance Bond, if ordered.

ADDITIONAL CONDITIONS OF RELEASE

Pursuant to 18 U.S.C. § 3142(c)(1)(B), the court may impose the following least restrictive condition(s) only as necessary to reasonably assure the appearance of the person as required and the safety of any other person and the community.

IT IS FURTHER ORDERED that the defendant's release is subject to the conditions marked below:

- ☐ (6) The defendant is placed in the custody of:

Person or organization _____

Address (only if above is an organization) _____

City and state _____

Tel. No. _____

who agrees to (a) supervise the defendant, (b) use every effort to assure the defendant's appearance at all court proceedings, and (c) notify the court immediately if the defendant violates a condition of release or is no longer in the custodian's custody.

Signed: _____

Custodian

Date _____

- ☒ (7) The defendant must:

- ☒ (a) submit to supervision by and report for supervision to the _____ probation officer as directed, telephone number _____, no later than _____.
- ☐ (b) continue or actively seek employment.
- ☐ (c) continue or start an education program.
- ☐ (d) surrender any passport to: _____
- ☐ (e) not obtain a passport or other international travel document.
- ☒ (f) abide by the following restrictions on personal association, residence, or travel: remain in the Middle District of North Carolina except to travel to court or meet with counsel in the Northern District of Georgia, with a travel itinerary to be given to USPO
- ☒ (g) avoid all contact, directly or indirectly, with any person who is or may be a victim or witness in the investigation or prosecution, including: refrain from communicating with co-defendant about the case unless Counsel is present
- ☐ (h) get medical or psychiatric treatment: _____
- ☐ (i) return to custody each _____ at _____ o'clock after being released at _____ o'clock for employment, schooling, or the following purposes: _____
- ☐ (j) maintain residence at a halfway house or community corrections center, as the pretrial services office or supervising officer considers necessary.
- ☒ (k) not possess a firearm, destructive device, or other weapon.
- ☐ (l) not use alcohol (☐) at all (☐) excessively.
- ☒ (m) not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
- ☒ (n) submit to testing for a prohibited substance if required by the pretrial services office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.
- ☐ (o) participate in a program of inpatient or outpatient substance abuse therapy and counseling if directed by the pretrial services office or supervising officer.
- ☐ (p) participate in one of the following location restriction programs and comply with its requirements as directed.
- ☐ (i) **Curfew.** You are restricted to your residence every day (☐) from _____ to _____, or (☐) as directed by the pretrial services office or supervising officer; or
- ☐ (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the pretrial services office or supervising officer; or
- ☐ (iii) **Home Incarceration.** You are restricted to 24-hour-a-day lock-down at your residence except for medical necessities and court appearances or other activities specifically approved by the court; or
- ☐ (iv) **Stand Alone Monitoring.** You have no residential curfew, home detention, or home incarceration restrictions. However, you must comply with the location or travel restrictions as imposed by the court.
- Note:** Stand Alone Monitoring should be used in conjunction with global positioning system (GPS) technology.

ADDITIONAL CONDITIONS OF RELEASE

- ☐ (q) submit to the following location monitoring technology and comply with its requirements as directed:
- ☐ (i) Location monitoring technology as directed by the pretrial services or supervising officer; or
 - ☐ (ii) Voice Recognition; or
 - ☐ (iii) Radio Frequency; or
 - ☐ (iv) GPS.
- ☐ (r) pay all or part of the cost of location monitoring based upon your ability to pay as determined by the pretrial services or supervising officer.
- ☐ (s) report as soon as possible, to the pretrial services or supervising officer, every contact with law enforcement personnel, including arrests, questioning, or traffic stops.
- ☒ (t) Defendant shall surrender/relinquish any firearms in his residence
-

ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (*i.e.*, in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.


If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.


 Defendant's Signature
 Durham, NC
 City and State

Directions to the United States Marshal

- (☒) The defendant is ORDERED released after processing.
 (☐) The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions for release.* If still in custody, the defendant must be produced before

Date: 3/24/2023


 Judicial Officer's Signature

Joe L. Webster, United States Magistrate Judge

Printed name and title

DISTRIBUTION: COURT DEFENDANT PRETRIAL SERVICE U.S. ATTORNEY U.S. MARSHAL



UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America)

v.)

HORACE DONTE DULANEY)

Case No. 1:23MJ146-1

Defendant)

APPEARANCE BOND

Defendant's Agreement

I, HORACE DONTE DULANEY (*defendant*), agree to follow every order of this court, or any court that considers this case, and I further agree that this bond may be forfeited if I fail:

- (☒) to appear for court proceedings;
- (☒) if convicted, to surrender to serve a sentence that the court may impose; or
- (☒) to comply with all conditions set forth in the Order Setting Conditions of Release.

Type of Bond

- (☒) (1) This is a personal recognizance bond.
- () (2) This is an unsecured bond of \$ _____.
- () (3) This is a secured bond of \$ _____, secured by:
 - () (a) \$ _____, in cash deposited with the court.
 - () (b) the agreement of the defendant and each surety to forfeit the following cash or other property (*describe the cash or other property, including claims on it – such as a lien, mortgage, or loan – and attach proof of ownership and value*):

If this bond is secured by real property, documents to protect the secured interest may be filed of record.

- () (c) a bail bond with a solvent surety (*attach a copy of the bail bond, or describe it and identify the surety*):

Forfeiture or Release of the Bond

Forfeiture of the Bond. This appearance bond may be forfeited if the defendant does not comply with the above agreement. The court may immediately order the amount of the bond surrendered to the United States, including the security for the bond, if the defendant does not comply with the agreement. At the request of the United States, the court may order a judgment of forfeiture against the defendant and each surety for the entire amount of the bond, including interest and costs.

Release of the Bond. The court may order this appearance bond ended at any time. This bond will be satisfied and the security will be released when either: (1) the defendant is found not guilty on all charges, or (2) the defendant reports to serve a sentence.

Declarations

Ownership of the Property. I, the defendant – and each surety – declare under penalty of perjury that:

- (1) all owners of the property securing this appearance bond are included on the bond;
- (2) the property is not subject to claims, except as described above; and
- (3) I will not sell the property, allow further claims to be made against it, or do anything to reduce its value while this appearance bond is in effect.

Acceptance. I, the defendant – and each surety – have read this appearance bond and have either read all the conditions of release set by the court or had them explained to me. I agree to this Appearance Bond.

I, the defendant – and each surety – declare under penalty of perjury that this information is true. (See 28 U.S.C. § 1746.)

Date: 03/24/2023


Defendant's signature

Surety/property owner – printed name

Surety/property owner – signature and date

Surety/property owner – printed name

Surety/property owner – signature and date

Surety/property owner – printed name

Surety/property owner – signature and date

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Approved.

Date: 03/24/2023


Judge's signature